

SUPREME COURT OF ARKANSAS

No. 10-432

WILLIE HUTCHERSON
Appellant

v.

STATE OF ARKANSAS
Appellee

Opinion Delivered September 30, 2010

PRO SE PETITION FOR WRIT OF
CERTIORARI [CIRCUIT COURT
OF LEE COUNTY, CV 2009-205,
HON. RICHARD L. PROCTOR,
JUDGE]

APPEAL DISMISSED; MOTION
MOOT.

PER CURIAM

On December 22, 2009, appellant Willie Hutcherson filed in the circuit court in the county where he was incarcerated a pro se petition for writ of habeas corpus pursuant to Arkansas Code Annotated §§ 16-112-101 to -123 (Repl. 2006). The petition was denied, and appellant lodged an appeal here. He filed his brief-in-chief and reply brief and now seeks by pro se petition a writ of certiorari to complete the record.

We need not address the merits of the petition for writ of certiorari as it is clear from the record that appellant could not prevail on appeal. Accordingly, the appeal is dismissed, and the petition is moot. An appeal from an order that denied a petition for postconviction relief, including a petition for writ of habeas corpus, will not be permitted to go forward where it is clear that the appellant could not prevail. *Washington v. Norris*, 2010 Ark. 104 (per curiam); *Edwards v. State*, 2010 Ark. 85 (per curiam); *Grissom v. State*, 2009 Ark. 557 (per curiam); *Pineda v. Norris*, 2009 Ark. 471 (per curiam).

Appellant failed to state a claim in his petition that was cognizable in a habeas proceeding. The burden is on the petitioner in a habeas corpus petition to establish that the trial court lacked jurisdiction or that the commitment was invalid on its face; otherwise, there is no basis for a finding that a writ of habeas corpus should issue. *Young v. Norris*, 365 Ark. 219, 226 S.W.3d 797 (2006) (per curiam). Under our statute, a petitioner who does not allege his actual innocence¹ must plead either the facial invalidity of the judgment or the lack of jurisdiction by the trial court and make a “showing by affidavit or other evidence, [of] probable cause to believe” that he is illegally detained. *Id.* at 221, 226 S.W.3d at 798–99; Ark. Code Ann. § 16-112-103(a)(1).

Appellant contended that the trial court lacked jurisdiction in his case because his conviction was obtained by the admission of suppressed evidence. The claim is not one that calls into question the court’s jurisdiction to try the accused. As appellant offered nothing to demonstrate that the trial court lacked personal jurisdiction over him or jurisdiction over the subject matter, there was no ground stated to issue the writ. A court with personal and subject-matter jurisdiction over the defendant in a criminal proceeding has authority to render judgment. *Johnson v. State*, 298 Ark. 479, 769 S.W.2d 3 (1989).

Appeal dismissed; motion moot.

¹A petitioner who seeks a writ of habeas corpus and alleges actual innocence must do so in accordance with Act 1780 of 2001 Acts of Arkansas, codified as Arkansas Code Annotated sections 16-112-201 to -208 (Repl. 2006). Ark. Code Ann. § 16-112-103(a)(2) (Repl. 2006).